



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/551,977      | 04/14/2000  | John M. Polo         | 930049.489/1593.004 | 2230             |

|                              |  |
|------------------------------|--|
| 7590 04/03/2007              |  |
| ANNE S. DOLLARD, ESQ.        |  |
| CHIRON CORPORATION           |  |
| INTELLECTUAL PROPERTY - R440 |  |
| P.O. BOX 8097                |  |
| EMERYVILLE, CA 94662-8097    |  |

|           |  |
|-----------|--|
| EXAMINER  |  |
| LI, BAO Q |  |

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 1648     |              |

|            |               |
|------------|---------------|
| MAIL DATE  | DELIVERY MODE |
| 04/03/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

# Communication Re: Appeal

Application No.

09/551,977

Examiner

Bao Qun Li

Applicant(s)

POLO ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$\_\_\_\_\_.

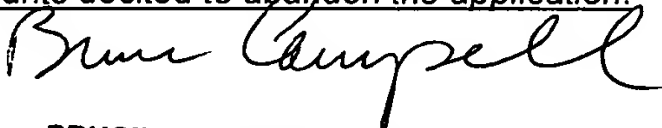
The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☒ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
- (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☐ other: Board had affirmed the rejection and decided the claim 20 would be allowable, if it was re-written as an independent claim. Appellants had been contacted on March 21-27, 2007. They did not accept the proposed claim 20 re-written as an independent claim, which is directed to a recombinant Sindbis virus comprising a heterologous sequence and the amino acid mutation G160E in its E2 glycoprotein. The period for seeking court review of the decision has expired and Appellants decided to abandon the application.

4. ☒ Because of the dismissal of the appeal, this application:

- (a) ☒ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. The period for disposition on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration.

  
BRUCE R. CAMPELL, PH.D.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600